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Docket No. 51812

COMPLAINT OF CHEVRON PHILLIPS § BEFORE THE  
CHEMICAL COMPANY LP §  
CONCERNING ENERGY § PUBLIC UTILITY COMMISSION  
PRICES DURING THE FEBRUARY 2021 §  
WINTER WEATHER EVENT § OF TEXAS

Docket No. 51812

ISSUES RELATED TO THE STATE § BEFORE THE  
OF DISASTER FOR THE §  
FEBRUARY 2021 WINTER § PUBLIC UTILITY COMMISSION  
WEATHER EVENT §  
§ OF TEXAS

Docket No. 51812

§ BEFORE THE  
OVERSIGHT OF THE ELECTRIC §  
§ PUBLIC UTILITY COMMISSION  
RELIABILITY COUNCIL OF TEXAS §  
§ OF TEXAS

**PROVISIONAL COMPLAINT  
OF CHEVRON PHILLIPS CHEMICAL COMPANY LP  
CONCERNING ENERGY PRICES DURING  
THE FEBRUARY 2021 WINTER WEATHER EVENT**

On March 18, 2021, Chevron Phillips Chemical Company LP (“CPChem”) filed its Petition for Emergency Relief for Extension of Texas Administrative Code Filing Deadlines, noting that (a) the Public Utility Commission (“Commission”) on March 12, 2021 had ordered ERCOT to extend certain deadlines under the ERCOT Nodal Protocols from ten days to six months (Project 51812, Item 162; the “March 12 Order”), but that (b) the March 12 Order did not similarly extend deadlines for parties, like CPChem, which may need to seek any administrative relief related to the February 2021 Winter Weather Event (the “Winter Weather Event”) directly with the Commission under 16 Tex. Admin. Code (“TAC”) § 22.251(d), because of lack of eligibility to first pursue such relief with ERCOT.

As noted in the Petition for Emergency Relief, and as reflected in the March 12 Order granting six-month extensions for challenges to pricing associated with the Winter Weather Event, it is not presently possible for CPChem to fully assess the factual situation, charges, and legal arguments associated with this unprecedented and chaotic event and its aftermath. CPChem has not had the opportunity to review transcripts of all public hearings or to fully assess the various legal arguments being filed by large numbers of other parties. There are legislative measures currently under review and debate that could affect CPChem's rights. And CPChem, which purchases electric power at rates that are responsive to ERCOT decisions, but does not purchase power directly from ERCOT, had not, at the time this filing was prepared, received its invoices for power associated with the Winter Weather Event.<sup>1</sup>

At the time of this submission, CPChem's Petition for Emergency Relief has not been granted. CPChem continues to seek the relief requested therein. In addition, in order to preserve its rights and demonstrate good faith effort to comply with any deadlines that may be applicable to CPChem under 16 TAC 22.251(d), CPChem submits this Provisional Complaint describing its legal challenge to ERCOT pricing measures employed during the Winter Weather Event.

## **I. Parties**

### **Complainant:**

Chevron Phillips Chemical Company LP

Represented by:

REYNOLDS FRIZZELL LLP

Jean C. Frizzell

State Bar No. 07484650

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<sup>1</sup> After this Complaint had been prepared and was in the process of being finalized for filing, CPChem received an invoice that it believes reflects the majority of (but not all of) its electric power charges associated with the Winter Weather Event. CPChem did not have adequate time and opportunity to evaluate this invoice and determine the particulars of how it was calculated, prior to needing to file this Complaint with the Commission in order to meet a deadline of 35 days after February 15, 2021.

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**ERCOT:**

**To the best of CPChem's knowledge, ERCOT's authorized representative is:**

Chad V. Seely  
Vice President and General Counsel  
ERCOT  
7620 Metro Center Drive  
Austin, Texas 78744  
(512) 225-7035 (Telephone)  
(512) 225-7079 (Facsimile)  
chad.seely@ercot.com

**II. Statement of the Case**

The Commission has jurisdiction over this Complaint pursuant to 16 TAC § 22.251 and Tex. Util. Code § 39.151. CPChem is authorized to proceed directly before the Commission pursuant to 16 TAC 22.251(c)(1)(b).<sup>2</sup>

This matter relates to the circumstances already at issue in numerous filings associated with Control Number 51812, concerning the Winter Weather Event. It concerns the conduct of ERCOT, in connection with the Commission's Orders of February 15 and 16, 2021, attached as **Exhibit A**, *to set and later hold* energy prices at the value of lost load resulting in maximized

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<sup>2</sup> While CPChem asserts that the Commission has jurisdiction over this Complaint as herein stated, neither this Complaint nor CPChem's Petition for Emergency Relief is intended to assert that the Commission possesses exclusive jurisdiction over all matters discussed in those submissions, and CPChem reserves and does not waive any and all rights it may possess to pursue related relief in other fora to the extent permitted or required.

\$9,000/MWh prices commencing on February 15, 2021 and not being lifted until approximately 9:00 AM on Friday, February 19.<sup>3</sup>

These actions have significant implications for CPChem. CPChem is a leading manufacturer of chemicals and polymers and is one of the largest industrial electricity users in Harris County, Texas. CPChem also operates substantial facilities in other parts of Texas. Although CPChem does not purchase electric power directly from ERCOT, CPChem contracts with an intermediary electric power provider to purchase power for its facilities and, through that arrangement, has exposure to prevailing rates and charges implemented by ERCOT. CPChem has not yet been able to review, analyze, and make inquiries regarding the particulars of its invoices for electric usage during the Winter Weather Event, but based on available information calculates that such invoices could reflect tens of millions of dollars in above-normal charges due to ERCOT pricing actions during the Winter Weather Event.

Based on information now available, it appears that ERCOT acted inappropriately and without legal authorization when it determined to extend \$9,000/MWh prices through the morning of February 19, 2021, including, per credible sources, after the rationale for such prices, as stated in the Commission's Orders of February 15 and 16, ceased to be present after 11:55 PM on February 17. Political leaders have criticized these actions and warned of serious and unfair consequences for affected persons throughout Texas.<sup>4</sup> Potomac Economics, which serves as Independent Market Monitor pursuant to 16 TAC § 25.365, (the "IMM"), has publicly stated the

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<sup>3</sup> All dates referenced in this Complaint refer to the year 2021, unless otherwise indicated.

<sup>4</sup> See, e.g., **Exhibit B**, letter from Texas state senators dated March 9, 2021; Patrick Svitek, *Lt. Gov. Dan Patrick focuses scorn on Public Utility Commission after winter storm, testing Gov. Greg Abbott*, The Texas Tribune (March 12, 2021), <https://www.texastribune.org/2021/03/12/dan-patrick-puc-greg-abbott/>.

same position.<sup>5</sup> CPChem is one of the many businesses and consumers negatively impacted by these decisions.

CPChem requests that the Commission order ERCOT to correct prices, including at a minimum, from midnight on the night of February 17-18, 2021 through 9:00 A.M. on February 19, 2021 in a manner that disregards all mechanisms employed to maintain a \$9,000/MWh price or any other price determined to be artificially inflated. Such relief presumably would also benefit other parties that directly or indirectly purchase power at rates set by ERCOT, potentially including industrial power customers like CPChem, large and small businesses including commercial landlords and their tenants, and Market Participants including QSEs and LSEs.

CPChem is also aware of challenges to the legitimacy of holding prices at the \$9,000 cap even when load shed was occurring during the Winter Weather Event.<sup>6</sup> As noted above and as described in its Petition for Emergency Relief for Extension of Texas Administrative Code Filing Deadlines, CPChem has not been able to fully evaluate such claims, or the degree to which they may affect CPChem. Accordingly, CPChem reserves the right to pursue associated relief and to challenge the legitimacy of the decisions to force prices to regulatory maximums at any time during the Winter Weather Event rather than leaving them to mechanisms established prior to the Winter Weather Event.

CPChem seeks correction of past prices as noted above. CPChem does not seek suspension of any present conduct of ERCOT or the Commission, apart from not correcting such past prices to date.

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<sup>5</sup> See **Exhibits C and D**, IMM letters dated 2021.03.04 and 2021.03.11.

<sup>6</sup> See, e.g., Project 51812, Item 170, Comments and Motion for Rehearing of Exelon Generation Company LLC; Project 51812, Item 168, Motion to Reconsider of Bobcat Bluff Wind, LLC, et al.

### III. Applicability of ERCOT Protocols

CPChem has not pursued ERCOT ADR under Protocol 20 or the settlement or invoice dispute processes of Protocol 9, because presently available information indicates that CPChem is not eligible to pursue such relief and therefore is excused from any requirement to do so pursuant to 16 TAC § 22.251(c)(1)(B).

CPChem is a member of ERCOT but does not have a Market Participant membership. CPChem does not appear to meet the definitions of any of the types of Market Participants listed in the definition of that term in Protocol 2. In addition, CPChem does not receive Invoices or Settlement Statements from ERCOT and does not have access to requisite computer systems necessary to initiate Settlement Statement or Invoice disputes under Protocol 9. By their terms, the dispute mechanisms in Protocol 9.14.2 are available only to parties that receive invoices “from ERCOT” and statements “issued by ERCOT,” and these and the mechanisms of Protocol 20 are available only to Market Participants.<sup>7</sup> Past administrative decisions acknowledge that dispute provisions of the Nodal Protocols may be inapplicable to certain parties that do not meet requisite criteria.<sup>8</sup>

An entity’s inability to pursue settlement challenges under Protocol 9 also means an inability to benefit from the Commission’s March 12 Order extending certain deadlines under that Protocol by six months. At the time of this submission, the Commission has not ordered any such extension to deadlines under the Texas Administrative Code for regulatory actions filed directly

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<sup>7</sup> See, e.g., Protocols 9.14.2 and 20.1(1) and (2), and the definitions of “Invoice Recipient” and “Settlement Statement” in Protocol 2

<sup>8</sup> See, e.g., Docket No. 49673, Complaint of Aspire Commodities, LLC Against the Electric Reliability Council of Texas, Inc., Order No. 6 Denying Motion to Dismiss and Addressing Other Procedural Matters at 4–6; Docket No. 50852, Complaint of JBJQ Ranch for a Review of the Conduct of the Electric Reliability Council of Texas, Inc. Under 16 TAC § 22.251, Order No. 4 Relating to the ERCOT Nodal Protocols at 1.

with the Commission. In particular, it has not done so for Complaints under 16 TAC § 22.251(d), which requires filing “within 35 days of the ERCOT conduct complained of.”

#### **IV. Issues presented for Commission Review**

CPChem filed its Request for Emergency Relief, seeking a six-month extension comparable to that granted to similarly situated parties that may pursue relief under ERCOT Protocol 9, because presently available information does not allow CPChem to state its claims to the Commission comprehensively or with precision. CPChem reserves the right to supplement and amend this description of issues.

This Complaint raises issues including the following for the review of the Commission:

- (1) Did ERCOT violate the Commission’s Orders of February 15 and February 16, 2021 when it continued imposing prices at the \$9,000 cap after 11:55 PM on February 17, 2021 and up through the morning of February 19, 2021, though load shed had ceased?
- (2) Did ERCOT exceed its powers when, without authorization from an order of the Commission, it continued imposing prices at the \$9,000 cap after 11:55 PM on February 17, 2021 and up through the morning of February 19, 2021, though load shed had ceased?
- (3) Should the Commission order ERCOT to correct prices set at the \$9,000 cap during the time period at issue in (1) and (2), to where such prices would have been in the absence of measures taken by ERCOT to force maximum pricing?

In addition to these issues, CPChem again notes that it is evaluating, but presently lacks sufficient time and information to fully evaluate, further claims concerning the legal permissibility of prices being forcibly maintained at \$9,000 /MWh by ERCOT beginning on February 15, 2021. CPChem reserves the right to supplement and amend to address such claims as appropriate in connection with this Complaint.



## V. Statement of Facts

The basic circumstances of the Winter Weather Event are well-known to the Commission, are acknowledged in orders of the Commission, and have been described in numerous prior submissions to the Commission. Texas experienced record-setting severe weather across the state. Governor Abbott declared a state of disaster for all Texas counties on February 12, 2021. *See Exhibit E.* As temperatures dropped, electric generation facilities and fuel supplies failed as demand surged.<sup>9</sup> Energy demand exceeded available supply beginning during the overnight period from February 14-15. ERCOT declared Energy Emergency Alert 3, its highest state of emergency, on February 15, and ordered curtailment of more than 10,000 megawatts of firm load.<sup>10</sup> Customers throughout Texas were without power.

The Commission addressed these circumstances in part through its Order of February 15, 2021, which noted that “ERCOT has informed the Commission that energy prices across the system are clearing at less than \$9,000, which is the current system-wide offer cap pursuant to 16 TAC § 25.505(g)(6)(B).”<sup>11</sup> The Commission stated that “[i]f customer load is being shed, scarcity is at its maximum, and the market price for the energy needed to serve that load should also be at its highest.”<sup>12</sup> The Commission therefore ordered:

[T]he Commission determines that adjustments are needed to ERCOT prices to ensure they accurately reflect the scarcity conditions in the market. Accordingly, the Commission directs ERCOT to ensure that firm load that is being shed in EEA3 is accounted for in ERCOT’s scarcity pricing signals.<sup>13</sup>

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<sup>9</sup> *See Exhibit F*, 2021.02.24 ERCOT Presentation, at 13.

<sup>10</sup> *See Exhibit A* at .pdf page 3 (Feb. 15 Order at 1).

<sup>11</sup> *See id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at .pdf page 4 (Feb. 15 Order at 2). The Commission initially ordered that ERCOT apply such measures retroactively, but removed that aspect of its instructions in its Order of February 16, 2021. *See id.* at .pdf page 7 (Feb. 16 Order at 2).

An ERCOT Market Notice indicates that ERCOT determined to respond to the Commission's February 15 and 16 Orders by applying administrative price adders in order to push real-time prices to the \$9,000 cap. It stated that:

ERCOT will implement the pricing outcomes directed by the order by making an administrative adjustment to the Generation To Be Dispatched value in the Real-Time Reliability Deployment Price Adder process during all intervals in which ERCOT has directed firm Load shed. This adjustment will be equal to the cumulative MW ERCOT has directed for Load shed during each Security-Constrained Economic Dispatch (SCED) interval. To make use of existing system functionality and strictly for purposes of the Real-Time Reliability Deployment Price Adder process, this cumulative MW value will be entered in as a Real-Time Block Load Transfer import (RTBLTIMPORT) and will appear in any associated Market-facing reports as such. This change has already been implemented and will operate prospectively until the Commission directs otherwise.<sup>14</sup>

Although the Commission's orders of February 15 and 16 explicitly tied modified pricing to the then-present circumstance of load shed, ERCOT continued maintaining prices at the \$9,000 cap even after load shed had ceased. The IMM has noted that ERCOT "recalled the last of the firm load shed instructions at 23:55 on February 17, 2021."<sup>15</sup> As of 1:05 AM on February 18, ERCOT issued an Operations message noting it had "completed the restoration of all firm load shed." There were ample reserves, exceeding 10,000 MWs at various times, throughout the day on February 18.<sup>16</sup> Although load shed ended over the night of February 17-18, ERCOT continued to employ administrative price adders and maintained real-time prices at the \$9,000 cap through 9:00 AM on February 19, approximately 33 hours later.

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<sup>14</sup> See ERCOT Market Notice M-C021521-01, Emergency Order of the Public Utility Commission Affecting ERCOT Market Prices (Feb. 15, 2021) (attached as **Exhibit J**).

<sup>15</sup> See **Exhibit C**, 2021.03.04 IMM letter at 1.

<sup>16</sup> For a summary of grid resources and conditions on February 18, see Project 51812, Item 36, Emergency Request to Enforce Commission Order of Texas Energy Association for Marketers, at 4.

CPChem worked to reduce its electric power usage during the Winter Weather Event but has essential power needs that had to be met.<sup>17</sup> CPChem operates large-scale facilities for the manufacture of chemicals and polymers, and stores and handles a variety of materials that are volatile and/or hazardous. CPChem endeavors at all times to manage such materials in a manner that is safe, responsible, and in compliance with applicable laws. In ordinary circumstances, CPChem is one of the largest consumers of electric power in Harris County, and also operates substantial facilities at other locations in Texas. Taken altogether, CPChem's facilities continued to have substantial, critical needs for electric power during the Winter Weather Event.

CPChem contracts with an intermediary electric power provider to purchase power for its facilities and, through that arrangement, has exposure to prevailing rates and charges implemented by ERCOT.<sup>18</sup> Based on available information, CPChem calculates that it will likely face tens of millions of dollars in above-normal charges due to ERCOT maintaining real-time prices at the \$9,000 cap during the Winter Weather Event. This likely will include millions or tens of millions of dollars of exposure to excess charges during the time from approximately midnight during the night of February 17-18 until 9:00 AM on February 19 when ERCOT continued to hold real-time prices at the \$9,000 cap after the cessation of load shed.

In the aftermath of the Winter Weather Event, ERCOT's actions to hold real-time prices at the cap were criticized by the IMM and by political leaders including the Lieutenant Governor and members of the Senate.<sup>19</sup> The IMM recommended that the Commission direct ERCOT "correct the real-time prices from 0:00 February 18, 2021 to 09:00 February 19, 2021 to remove the

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<sup>17</sup> Factual statements in this paragraph, and elsewhere in this Complaint, are verified by the accompanying Declaration of Martin Q. Dale.

<sup>18</sup> Factual statements in this paragraph, and elsewhere in this Complaint, are verified by the accompanying Declaration of Martin Q. Dale.

<sup>19</sup> See **Exhibits C and D** (IMM Letters), **Exhibit G** (Lt. Gov. Statement); **Exhibit B** (Senators' Letter).

inappropriate pricing intervention. . . .”<sup>20</sup> The Governor has made ERCOT winter storm pricing issues an emergency item during the current legislative session, and on March 15, the Texas Senate passed a bill, Senate Bill No. 2142, that likewise would require ERCOT to correct this pricing after the cessation of load shed.<sup>21</sup> Others, including outgoing Commission Chair Arthur D’Andrea and Texas House speaker Dade Phelan, have stated reasons for opposing such price corrections.<sup>22</sup> The office of the Attorney General is investigating and opining on related issues.<sup>23</sup> At the time of this submission, the matter is being debated in the legislature and the future composition of the Commission is unknown. The situation is fluid and unpredictable.

## **VI. Issues of Fact for Hearing**

It is not feasible to anticipate all factual issues that may need to be considered in connection with this Complaint, considering the fluid and unpredictable situation. At present, CPChem anticipates that the following issues of fact, at least, may require discovery and/or an evidentiary hearing.

- The timeline and content of communications between the Commission and ERCOT, and within ERCOT and the Commission, regarding load shed and pricing during the Winter Weather Event.
- Questions of practical consequences, beyond those for the Complainant, that any party contends would follow from correction of prices imposed during the Winter Weather Event.

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<sup>20</sup> See **Exhibit C**, 2021.03.04 IMM letter at 2.

<sup>21</sup> See **Exhibit H**, Submission of Emergency Matter; **Exhibit I**, SB-2142.

<sup>22</sup> See, e.g., Shawn Mulcahy, Cassandra Pollock & Patrick Svitek, *Electricity repricing bill hits wall in House, marking first major schism with Senate this session*, The Texas Tribune (last updated March 17, 2021), <https://www.texastribune.org/2021/03/16/ercot-overbilling-legislature/>.

<sup>23</sup> See, e.g., Press Release, Attorney General of Texas Ken Paxton, AG Paxton Issues CIDs to ERCOT and Other Companies Following Dangerous Winter Storm Power Failures (February 19, 2021), <https://www.texasattorneygeneral.gov/news/releases/ag-paxton-issues-cids-ercot-and-other-companies-following-dangerous-winter-storm-power-failures>; Press Release, Attorney General of Texas Ken Paxton, AG Patton Expands Winter Storm Investigation into Natural Gas Price Increases (March 8, 2021), <https://www.texasattorneygeneral.gov/news/releases/ag-paxton-expands-winter-storm-investigation-natural-gas-price-increases>.

- Questions of practical consequences, beyond those for the Complainant, that any party contends would follow from failure to correct prices imposed during the Winter Weather Event for: a) the period after load shed ceased; and b) the entire period in which ERCOT maintained prices at the maximum level.
- Identification of the precise mechanisms employed by ERCOT to impact prices during the Winter Weather Event, the timing of the application of those mechanisms, and determination whether circumstances meeting the applicable criteria for applying those mechanisms were present.
- Identification of the prices that would have prevailed at various times during the Winter Weather Event absent forcible application of prices at the \$9,000 cap.
- Facts demonstrating CPChem's qualification, to the extent there is any doubt, as an "affected entity" for purposes of 16 TAC § 22.251(b).

## **VII. Argument**

The present uncertainties, including with regard to factual circumstances, potential legislative enactments, and even the amount of and basis for calculation of CPChem's charges for power during the Winter Weather Event, make it difficult for CPChem to present its arguments at this time, and CPChem would be irreparably harmed and prejudiced by any requirement that it do so now. This is why CPChem has sought emergency relief in the form of a six-month extension, comparable to that granted by the Commission's March 12 Order for parties similarly challenging ERCOT pricing through Nodal Protocol 9. Preliminary arguments are below.

ERCOT's application of \$9,000 pricing even after the cessation of load shed appears inconsistent with, and to have violated, the Commission's February 15 and 16 orders. Those orders stated that the Commission has complete authority over ERCOT pursuant to Tex. Util. Code § 39.151(d).<sup>24</sup> The Commission explicitly premised imposition of maximum prices on the

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<sup>24</sup> See **Exhibit A** at .pdf page 3 (Feb. 15 Order at 1).

existence of load shed. In a paragraph appearing under the section heading “Energy Prices Lower than System-Wide Offer Cap *During Load-Shed Event*,” the Commission stated

Energy prices should reflect scarcity of the supply. *If customer load is being shed, scarcity is at its maximum*, and the market price for the energy needed to serve that load should also be at its highest.<sup>25</sup>

The Commission then stated that “adjustments are needed to ERCOT prices to ensure they accurately reflect the scarcity conditions in the market,” which scarcity the Commission already had identified with load shed. “Accordingly,” the Order continued, “the Commission directs ERCOT to ensure *that firm load that is being shed* in EEA3 is accounted for in ERCOT’s scarcity pricing signals.”<sup>26</sup> Despite these explicit instructions tying “highest” pricing to load shed, and without any other authorization from the Commission, ERCOT determined to implement \$9,000 pricing by means of “administrative adjustment” that would simply “operate prospectively until the Commission directs otherwise.”<sup>27</sup> In this way, ERCOT continued to impose artificial \$9,000 prices long after load shed had ceased, when the rationale and authorization for such pricing was no longer present. Enforcement of the Commission’s authority over ERCOT requires that the Commission enforce the actual intent of its orders and correct the excessively high pricing. *See* Tex. Util. Code § 39.151(d).

Such correction is authorized by law. The authority invoked by the Commission to issue its February 15 and 16 orders would apply with equal force to compel actual compliance with those orders to the extent they have been misinterpreted or misapplied. Moreover, ERCOT Protocol 6.3(4) provides that ERCOT shall correct prices when “a market solution is determined

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<sup>25</sup> *Id.* (emphasis added).

<sup>26</sup> *Id.* at .pdf page 4 (Feb. 15 Order at 2) (emphasis added)

<sup>27</sup> *See* ERCOT Market Notice M-C021521-01, Emergency Order of the Public Utility Commission Affecting ERCOT Market Prices (Feb. 15, 2021) (attached as **Exhibit J**).

to be invalid [or] invalid prices are identified in an otherwise valid market solution.” The Commission may direct ERCOT to make such corrections pursuant to its general authority over ERCOT. In addition, the Commission has the inherent power to issue interpretive guidance with respect to its own orders to the extent there is any doubt. *See Office of Pub. Util. Counsel v. Tex - New Mexico Power Co.*, 344 S.W.3d 446, 453 (Tex. App.—Austin 2011, pet. denied) (citing *Cities of Abilene v. Pub. Util. Comm’n of Tex.*, 146 S.W.3d 742, 747 & n.7 (Tex. App.—Austin 2004, no pet.)) (noting that an agency “is entitled to interpret its own order” as long as it does not thereby amend the order)

Principles of due process likewise require that the Commission have and exercise the ability to rectify harm from misapplication of its own emergency orders that were issued without ordinary administrative procedures, public comment, or other formalities. Some petitioners before the Commission have claimed that the Commission’s February 15 and 16 orders are invalid in their entirety due to failure to comply with substantive and procedural law, including requirements of the Administrative Procedure Act and other protections of due process.<sup>28</sup> CPChem does not presently have sufficient information to evaluate and determine whether to endorse such arguments in connection with this Complaint, and reserves the right to do so in the future. At the very least, however, due process requires that when the Commission, exercising unusual and rushed emergency procedures, issues orders with massive repercussions that are incorrectly applied by an entity charged to carry them out, the Commission has the power and obligation to rectify such application. The pricing of electric power by ERCOT at the \$9,000 level after cessation of load shed appears to require such correction.

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<sup>28</sup> *See, e.g.*, Project 51617, Item 170, Comments and Motion for Rehearing of Exelon Generation Company LLC.

### **VIII. Conclusion and Prayer**

CPChem files this Provisional Complaint in an effort to comply with any applicable deadline under 16 TAC § 22.251(d), and without waiving its Request for Emergency Relief requesting a six-month extension, comparable to that given to other parties in the Commission's March 12 order for seeking relief under that section.

CPChem, along with many other Texas companies and households, faces substantial harm as a result of electric power prices that ERCOT improperly set at \$9,000. While reserving all rights to seek additional relief through supplementation and/or amendment of its claims herein provisionally described, CPChem requests that the Commission, at a minimum, order ERCOT to correct electric power prices from midnight on the night of February 17-18 through 9:00 AM on February 19, a period of 33 hours, to remove all effects of the inappropriate pricing intervention that occurred during that time period.

Respectfully submitted on March 22, 2021, by:

**REYNOLDS FRIZZELL LLP**

/s/ Jean C. Frizzell

Jean C. Frizzell

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**ATTORNEYS FOR CHEVRON PHILLIPS  
CHEMICAL COMPANY LP**



COMPLAINT OF CHEVRON PHILLIPS  
CHEMICAL COMPANY LP  
CONCERNING ENERGY  
PRICES DURING THE FEBRUARY 2021  
WINTER WEATHER EVENT

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BEFORE THE  
PUBLIC UTILITY COMMISSION  
OF TEXAS

ISSUES RELATED TO THE STATE § BEFORE THE  
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§ OF TEXAS

OVERSIGHT OF THE ELECTRIC  
RELIABILITY COUNCIL OF TEXAS

BEFORE THE  
PUBLIC UTILITY COMMISSION  
OF TEXAS

1. My name is Martin Q. Dale and my birth date is January 15, 1962. I hold the position of Supply General Manager - Petrochemicals for Chevron Phillips Chemical Company LP ("Pchem") and my address at work is 10001 Six Pines Drive The Woodlands, TX 77380. I am over 21 years of age and competent to make this Declaration.

3. I declare the foregoing under penalty of perjury on this the 21<sup>st</sup> day of March, 2021.

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	§	PUBLIC UTILITY COMMISSION
RELIABILITY COUNCIL OF TEXAS	§	
	§	OF TEXAS

**DECLARATION OF NATHAN M. SMITH**

1. My name is Nathan M. Smith and my birth date is March 7, 1977. I serve as outside counsel for Chevron Phillips Chemical Company LP (“CPChem”) in the above-styled matter, and my address at work is 1100 Louisiana Suite 3500, Houston TX 77002. I am over 21 years of age and competent to make this Declaration.

2. I make this Declaration with respect to the Provisional Complaint of Chevron Phillips Chemical Company LP Concerning Energy Prices During the February 2021 Winter Weather Event (the “Complaint”).

3. Filed together with the Complaint is **Exhibit A**, a true and correct copy of the Commission Orders of February 15 and 16, 2021.

4. Filed together with the Complaint is **Exhibit B**, a true and correct copy of the March 9, 2021 Letter to Arthur C. D’Andrea from Carol Alvarado, et al.

5. Filed together with the Complaint is **Exhibit C**, a true and correct copy of the March 4, 2021 letter from the Independent Market Monitor.

6. Filed together with the Complaint is **Exhibit D**, a true and correct copy of the March 11, 2021 letter from the Independent Market Monitor.

7. Filed together with the Complaint is **Exhibit E**, a true and correct copy of the February 12, 2021 Governor's Disaster Proclamation.

8. Filed together with the Complaint is **Exhibit F**, a true and correct copy of the ERCOT Extreme Cold Weather Event presentation dated February 24, 2021 at 10:25 a.m.

9. Filed together with the Complaint is **Exhibit G**, a true and correct copy of the Statement of the Lieutenant Governor of March 8, 2021.


10. Filed together with the Complaint is **Exhibit H**, a true and correct copy of the Message of the Governor submitting emergency matters for consideration, dated March 9, 2021.

11. Filed together with the Complaint is **Exhibit I**, a true and correct copy of 2021 Senate Bill No. 2142.

12. Filed together with the Complaint is **Exhibit J**, a true and correct copy of ERCOT Market Notice M-C021521-01, dated February 15, 2021.

13. Content of some exhibits has been reduced in size to enable submission with 8.5 by 11 page size and with portrait orientation for the convenience of the Commission.

14. I declare the foregoing under penalty of perjury on this the 22nd day the of March, 2021.



Nathan M. Smith

# EXHIBIT A

DeAnn T. Walker  
Chairman

Arthur C. D'Andrea  
Commissioner

Shelly Botkin  
Commissioner

John Paul Urban  
Executive Director



Greg Abbott  
Governor

## *Public Utility Commission of Texas*

---

**TO:** Central Records

**FROM:** Stephen Journeay  
Commission Counsel

**DATE:** February 17, 2021

**RE:** Project 51812, *Issues Related to the State of Disaster for the February 2021 Winter Weather Event*, Commission orders directing action by ERCOT

---

Please file a copy of the following orders issued by the Commission attached to this memorandum in the above referenced project.

Order of February 15, 2021 directing ERCOT to take action and granting exceptions to commission rules originally filed in Project 51617 on February 16, 2021.

Order of February 16, 2021 second directing ERCOT to take action and granting exceptions to commission rules originally filed in Project 51617 on February 16, 2021.

q:\cadm\memos\central records\51812 ercot orders.docx



**PUC PROJECT NO. 51617**

**OVERSIGHT OF THE ELECTRIC  
RELIABILITY COUNCIL OF TEXAS**

§  
§  
§

**PUBLIC UTILITY COMMISSION  
OF TEXAS**

**ORDER DIRECTING ERCOT TO TAKE ACTION  
AND GRANTING EXCEPTION TO COMMISSION RULES**

On February 12, 2021, pursuant to Texas Government Code § 418.014, in response to an extreme winter weather event, Governor Greg Abbott issued a Declaration of a State of Disaster for all counties in Texas.

Further, on February 15, 2021, the Electric Reliability Council of Texas, Inc. (ERCOT) declared its highest state of emergency, an Emergency Energy Alert Level 3 (EEA3), due to exceptionally high electric demand exceeding supply. ERCOT has directed transmission operators in the ERCOT region to curtail more than 10,000 megawatts (MW) of firm load. The ERCOT System is expected to remain in EEA3, and firm load shed is expected to continue, for a sustained period of time in light of the expected duration of the extreme weather event

This Order addresses two significant market anomalies identified during this EEA3 event.

**I. Energy Prices Lower than System-Wide Offer Cap During Load-Shed Event**

ERCOT has informed the Commission that energy prices across the system are clearing at less than \$9,000, which is the current system-wide offer cap pursuant to 16 TAC § 25.505(g)(6)(B). At various times today, energy prices across the system have been as low as approximately \$1,200. The Commission believes this outcome is inconsistent with the fundamental design of the ERCOT market. Energy prices should reflect scarcity of the supply. If customer load is being shed, scarcity is at its maximum, and the market price for the energy needed to serve that load should also be at its highest.

Utilities Code § 39.151(d) gives the Commission “complete authority” over ERCOT, the independent organization certified by the Commission pursuant to § 39.151. Further, 16 TAC § 25.501(a) provides that ERCOT determines market clearing prices of energy and other ancillary services in the ERCOT market unless “otherwise directed by the commission.”

Pursuant to this authority, the Commission determines that adjustments are needed to ERCOT prices to ensure they accurately reflect the scarcity conditions in the market. Accordingly, the Commission directs ERCOT to ensure that firm load that is being shed in EEA3 is accounted for in ERCOT's scarcity pricing signals. The Commission further directs ERCOT to correct any past prices such that firm load that is being shed in EEA3 is accounted for in ERCOT's scarcity pricing signals.

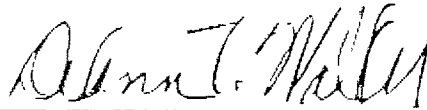
## **II. Suspension of LCAP in Scarcity Pricing Mechanism Due to Abnormal Fuel Prices**

ERCOT has informed the Commission that generator revenues are approaching the peaker net margin (PNM) threshold established in 16 TAC § 25.505(g)(6). That threshold is currently \$315,000/MW-year. As provided in §25.505(g)(6)(D), once the PNM threshold is achieved, the system-wide offer cap is set at the low system-wide offer cap (LCAP), which is is “the *greater* of” either “(i) \$2,000 per MWh and \$2,000 per MW per hour; or (ii) 50 times the natural gas price index value determined by ERCOT, expressed in dollars per MWh and dollars per MW per hour.” Due to exceptionally high natural gas prices at this time, if the LCAP is calculated as “50 times the natural gas price index value,” it may exceed the high system-wide offer cap (HCAP) of \$9,000 per MWh and \$9,000 per MW per hour. 16 TAC § 25.505(g)(6).


This outcome would be contrary to the purpose of the rule, which is to protect consumers from substantially high prices in years with substantial generator revenues. It would make little sense to expose consumers to prices that are *higher* than the usual maximum price after a generator revenue threshold has been achieved. Given the need to ensure appropriate energy prices to both consumers and generators during this system emergency, the Commission finds that, in accordance with 16 TAC §§ 22.5(a) and 25.3(b), a public emergency exists and good cause exists for granting an exception to 16 TAC § 25.505(g)(6)(A). On this basis, and because of the aforementioned concerns with the application of the LCAP, the Commission orders that ERCOT shall suspend any use of the LCAP until after the Commission's regularly-scheduled next open meeting, and that ERCOT shall continue to use the HCAP as the system-wide offer cap until that time.

Signed at Austin, Texas the 15th day of February 2021.

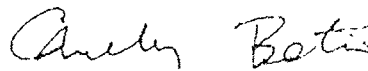
PUBLIC UTILITY COMMISSION OF TEXAS



DEANN T. WALKER, CHAIRMAN



ARTHUR C. D'ANDREA, COMMISSIONER



SHELLY BOTKIN, COMMISSIONER



**PUC PROJECT NO. 51617**

<b>OVERSIGHT OF THE ELECTRIC</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>RELIABILITY COUNCIL OF TEXAS</b>	<b>§</b>	
	<b>§</b>	<b>OF TEXAS</b>

**SECOND ORDER DIRECTING ERCOT TO TAKE ACTION  
AND GRANTING EXCEPTION TO COMMISSION RULES**

On February 12, 2021, pursuant to Texas Government Code § 418.014, in response to an extreme winter weather event, Governor Greg Abbott issued a Declaration of a State of Disaster for all counties in Texas.

Further, on February 15, 2021, the Electric Reliability Council of Texas, Inc. (ERCOT) declared its highest state of emergency, an Emergency Energy Alert Level 3 (EEA3), due to exceptionally high electric demand exceeding supply. ERCOT has directed transmission operators in the ERCOT region to curtail more than 10,000 megawatts (MW) of firm load. The ERCOT System is expected to remain in EEA3, and firm load shed is expected to continue, for a sustained period of time in light of the expected duration of the extreme weather event.

This Order addresses two significant market anomalies identified during this EEA3 event.

**I. Energy Prices Lower than System-Wide Offer Cap During Load-Shed Event**

ERCOT has informed the Commission that energy prices across the system are clearing at less than \$9,000, which is the current system-wide offer cap pursuant to 16 TAC § 25.505(g)(6)(B). At various times today, energy prices across the system have been as low as approximately \$1,200. The Commission believes this outcome is inconsistent with the fundamental design of the ERCOT market. Energy prices should reflect scarcity of the supply. If customer load is being shed, scarcity is at its maximum, and the market price for the energy needed to serve that load should also be at its highest.

Utilities Code § 39.151(d) gives the Commission “complete authority” over ERCOT, the independent organization certified by the Commission pursuant to § 39.151. Further, 16 TAC § 25.501(a) provides that ERCOT determines market clearing prices of energy and other ancillary services in the ERCOT market unless “otherwise directed by the commission.”

Pursuant to this authority, the Commission determines that adjustments are needed to ERCOT prices to ensure they accurately reflect the scarcity conditions in the market. Accordingly, the Commission directs ERCOT to ensure that firm load that is being shed in EEA3 is accounted for in ERCOT's scarcity pricing signals. However, the Commission determines that its directive to ERCOT in its order dated February 15 to also correct any past prices to account for load shed in EEA3 should be and is hereby rescinded and directs ERCOT to not correct any such past practices.

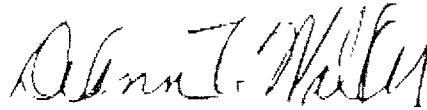
## **II. Suspension of LCAP in Scarcity Pricing Mechanism Due to Abnormal Fuel Prices**

ERCOT has informed the Commission that generator revenues are approaching the peaker net margin (PNM) threshold established in 16 TAC § 25.505(g)(6). That threshold is currently \$315,000/MW-year. As provided in §25.505(g)(6)(D), once the PNM threshold is achieved, the system-wide offer cap is set at the low system-wide offer cap (LCAP), which is is “the *greater* of” either “(i) \$2,000 per MWh and \$2,000 per MW per hour; or (ii) 50 times the natural gas price index value determined by ERCOT, expressed in dollars per MWh and dollars per MW per hour.” Due to exceptionally high natural gas prices at this time, if the LCAP is calculated as “50 times the natural gas price index value,” it may exceed the high system-wide offer cap (HCAP) of \$9,000 per MWh and \$9,000 per MW per hour. 16 TAC § 25.505(g)(6).

This outcome would be contrary to the purpose of the rule, which is to protect consumers from substantially high prices in years with substantial generator revenues. It would make little sense to expose consumers to prices that are *higher* than the usual maximum price after a generator revenue threshold has been achieved. Given the need to ensure appropriate energy prices to both consumers and generators during this system emergency, the Commission finds that, in accordance with 16 TAC §§ 22.5(a) and 25.3(b), a public emergency exists and good cause exists for granting an exception to 16 TAC § 25.505(g)(6)(A). On this basis, and because of the aforementioned concerns with the application of the LCAP, the Commission orders that ERCOT shall suspend any use of the LCAP until after the Commission's regularly-scheduled next open meeting, and that ERCOT shall continue to use the HCAP as the system-wide offer cap until that time.

Signed at Austin, Texas the 16th day of February 2021.

**PUBLIC UTILITY COMMISSION OF TEXAS**



DEANN T. WALKER, CHAIRMAN

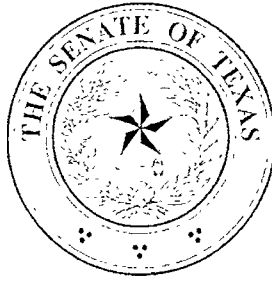


ARTHUR C. D'ANDREA, COMMISSIONER



SHELLY BOTKIN, COMMISSIONER

# EXHIBIT B



March 9, 2021

Public Utility Commission of Texas  
Chairman Arthur C. D'Andrea  
1701 N. Congress Avenue  
Austin, Texas 78711

Dear Chairman D'Andrea:

We urge you in the strongest possible terms to immediately correct the billing errors related to last month's winter storm. These corrections are squarely within your authority, whether by your own action or an order to ERCOT.

According to the Independent Market Monitor, ERCOT allowed the emergency pricing intervention to continue well into February 19, when it clearly should have ended by 11:55 p.m. on February 17. If not corrected, this additional 32 hours will result in inaccurate, excessive charges.

Further, ERCOT failed to properly apply the cap on ancillary service prices. At various times during the storm, ancillary service prices were allowed to far exceed the legal cap. This billing error also, if not immediately corrected, will cause inaccurate, excessive charges.

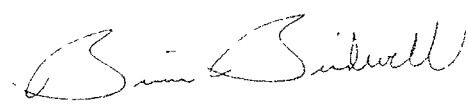
These billing corrections are a critical step in the significant reforms which we are undertaking.

But the time to make these corrections will soon expire, so we direct you to immediately correct these billing errors.

Sincerely,

  
Carol Alvarado

  
Paul Bettencourt

  
Brian Birdwell

Chairman Arthur C. D'Andrea

Page 2

March 9, 2021

César Blanco

Dawn Buckingham, MD

Donna Campbell, MD

Roland Gutierrez

Bob Hall

Juan "Chuy" Hinojosa

Joan Huffman

Bryan Hughes

Nathan Johnson

Lois Kolkhorst

Eddie Lucio, Jr.

José Menéndez

Borris Miles

Jane Nelson

Robert Nichols

Angela Paxton

Charles Perry

Beverly Powell

Charles Schwertner, MD

Kel Seliger

Drew Springer

Larry Taylor

Royce West

John Whitmire

Judith Zaffirini

cc: Electric Reliability Council of Texas  
7620 Metro Centre Drive  
Austin, Texas 78744

# EXHIBIT C

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TO VIEW DOCUMENT(S) PLEASE CONTACT  
CENTRAL RECORDS (512)-936-7180



Potomac Economics, Ltd.  
7620 Metro Center Drive  
Austin, Texas 78744

**POTOMAC  
ECONOMICS**

Telephone 512-879-7971  
Facsimile 703-383-0796

March 4, 2021

Public Utility Commission of Texas  
Chairman Arthur C. D'Andrea  
Commissioner Shelly Botkin  
1701 N. Congress Avenue  
Austin, Texas 78711

**Re: PUC Project No. 51812, Issues Related to the State of Disaster for the  
February 2021 Winter Weather Event**

Dear Chairman and Commissioner:

As the Independent Market Monitor (IMM) for the Public Utility Commission of Texas (Commission), Potomac Economics appreciates the opportunity to provide the following recommendation related to real-time energy prices during the recent winter weather event.

The IMM agrees with the Commission's Order from February 15, 2021, which mandated that real-time energy prices reflect firm load shed by setting prices at the value of lost load (VOLL).<sup>1</sup> This is essential in an energy-only market because it provides efficient economic signals to increase the electric generation needed to restore the load and service it reliably over the long term.

Conversely, it is equally important that prices *not* reflect VOLL when the system is not in shortage and load is being served. The Commission recognized this principle in its Order, expressly stating it is only ERCOT's out-of-market shedding firm load that is required to be reflected in prices. Unfortunately, ERCOT exceeded the mandate of the Commission by continuing to set process at VOLL long after it ceased the firm load shed.

ERCOT recalled the last of the firm load shed instructions at 23:55 on February 17, 2021. Therefore, in order to comply with the Commission Order, the pricing intervention that raised prices to VOLL should have ended immediately at that time. However, ERCOT continued to hold prices at VOLL by inflating the Real-Time On-Line Reliability Deployment Price Adder for an additional 32 hours through the morning of February 19. This decision resulted in \$16 billion in additional costs to ERCOT's market, of which roughly \$1.5 billion was uplifted to load-serving entities to provide make-whole payments to generators for energy that was not needed or produced. Although most energy costs can be hedged by ERCOT's load-serving entities through bilateral contracts or generation, these make-whole payments are particularly harmful because

<sup>1</sup> PUC Project No. 51617, *Calendar Year 2021 – Open Meeting Agenda Items without an Associated Control*; Second Order Directing ERCOT to take Action and Granting Exception to Commission Rules at I-2 (Feb. 16, 2021).

they are uplifted to all loads through the Real-Time Ancillary Service Imbalance Charge. Therefore, they cannot be hedged and will likely result in substantial adverse economic effects, including higher levels of defaults.

Therefore, the IMM recommends that the Commission direct ERCOT to correct the real-time prices from 0:00 February 18, 2021, to 09:00 February 19, 2021, to remove the inappropriate pricing intervention that occurred during that time period. From a practical standpoint, this will primarily be accomplished by removing most, if not all, of the Real-Time On-Line Reliability Deployment Price Adder during these intervals, which will substantially eliminate the Real-Time Ancillary Service Imbalance Charge.

Importantly, adopting this recommendation will not result any revenue shortfalls for ERCOT's generation as the corrected prices will cover the generator's as-offered costs, and efficiently reflect the actual supply, demand, and reserves during this period. We recognize that revising the prices retroactively is not ideal. In this case however, given that the prices are inconsistent with ERCOT's protocols and the Commission Order and that allowing them to remain will result in substantial and unjustified economic harm, we respectfully recommend that the Commission take the action described above to correct ERCOT's real time prices.

As always, the IMM stands ready to address any questions the Commission may have regarding this recommendation or the outcomes in the ERCOT wholesale market.

Sincerely,

*Carrie Bivens*

Carrie Bivens  
VP, ERCOT IMM Director  
Potomac Economics  
M: 512-879-7971  
[cbivens@potomaceconomics.com](mailto:cbivens@potomaceconomics.com)

# EXHIBIT D

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CENTRAL RECORDS (512)-936-7180

Potomac Economics, Ltd.  
7620 Metro Center Drive  
Austin, Texas 78744



Telephone: 512-879-7971  
Facsimile: 703-383-0796

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March 11, 2021

RECEIVED  
PUBLIC UTILITY COMMISSION

Public Utility Commission of Texas  
Chairman Arthur C. D'Andrea  
1701 N. Congress Avenue  
Austin, Texas 78711

**Re: PUC Project No. 51812, Issues Related to the State of Disaster for the  
February 2021 Winter Weather Event**

Dear Chairman:

As the Independent Market Monitor (IMM) for the Public Utility Commission of Texas (Commission), Potomac Economics appreciates the opportunity to follow-up on our March 4, 2021, recommendation related to real-time energy prices during the recent winter weather event.

As stated in our March 4, 2021 letter, ERCOT recalled the last of the firm load shed instructions at 23:55 on February 17, 2021. Therefore, in order to comply with the Commission Order,<sup>1</sup> the pricing intervention that raised prices to the value of lost load (VOLL) should have ended immediately at that time. Regrettably, ERCOT failed to do so and instead issued a notice to the market that it would remain in an emergency state through the morning of February 19, signaling to generators ERCOT's intention to hold prices at \$9,000 per MWh over this period.<sup>2</sup>

This decision resulted over-priced energy in ERCOT's real-time market by \$16 billion. Correcting this error will not reduce costs to consumers by \$16 billion because a substantial share of the demand is served by owned generation or forward contracts. Given the deliberations currently underway regarding our repricing recommendations, this letter provides our estimates of the changes in settlement costs that would result from our recommended price corrections described in our March 4, 2021 letter, as well as the settlement effects of our recommendation to cap the Ancillary Services (AS) prices at the VOLL of \$9,000 per MWh that we made in our letter dated March 1, 2021.

The results of the analysis described in this letter only includes transactions that are settled by ERCOT and, therefore, do not include forward contract settlements. Since all changes in settlements will net to zero for ERCOT, the positive changes for some entities will be offset by negative changes for other entities. Our results are netted at the corporate level, which accounts

<sup>1</sup> PUC Project No. 51617, Calendar Year 2021 – *Open Meeting Agenda Items without an Associated Control*, Second Order Directing ERCOT to take Action and Granting Exception to Commission Rules at 1-2 (Feb. 16, 2021); PUC Project No. 51812, *Issues Related to the State of Disaster for the February 2021 Winter Weather Event*, Order Directing ERCOT to take Action and Granting Exception to Commission Rules (Mar. 1, 2021).

<sup>2</sup> [http://www.ercot.com/services/comm/mkt\\_notices/archives/5225](http://www.ercot.com/services/comm/mkt_notices/archives/5225).

for any offsetting effects on multiple entities under the same corporate umbrella. Therefore, they provide as accurate an analysis of the effects of entities' financial positions as possible, since some entities both have generation and serve load.<sup>3</sup> When we account for day-ahead market positions and all offsetting supply and demand positions at the corporate level, our recommendations would alter the ERCOT settlements by a total of \$5.1 billion.

Two components of the settlement effects are related to correcting the real-time energy pricing:

- The real-time energy imbalance settlement effect is  $\pm \$3.2$  billion. This represents the effects on net energy buyers and sellers in the real-time energy market.
- Total real-time reserve imbalance settlement (known as the Real-Time AS Imbalance Charge) effect is  $\pm \$1$  billion. This reflects the change in make-whole payments to generators for energy that was not needed or produced. In other words, because ERCOT had a surplus of generation online offered at prices well below \$9,000 per MWh, it was obligated to provide make-whole payments to cover the "lost profits" of all the generators that would have preferred to produce more energy at \$9,000 per MWh.

The third settlement adjustment is associated with the remaining recommendation in our March 1 letter. ERCOT priced AS that were in shortage at prices much higher than the value of lost load of \$9,000 per MWh. Ancillary services are generally operating reserves held aside to provide additional supply to satisfy the energy demand when unforeseen events occur. Neither ERCOT's protocols nor any Commission Order endorses pricing shortages of operating reserves higher than shortages of energy. Further, it is economically inconsistent to value operating reserves higher than the energy demand that they protect. Hence, we recommended that the Commission correct this pricing error by capping the AS prices at the VOLL of \$9,000 per MWh. The net effect of this correction, accounting for offsetting effects at the corporate level, is  $\pm \$900$  million.

Once again, these corrections do not include the effects of any transactions that are outside of ERCOT settlement. We recognize that there are futures markets that are derived from the ERCOT real-time prices. We had hoped that action on our recommendations would be taken quickly, prior to the settlement of these futures markets. Given that many of these futures products have now settled against the original inflated real-time prices, the unintended consequences in these markets of correcting the real-time prices have increased. Therefore, although correcting the prices will allow them to more efficiently reflect the actual supply and demand during this period, this resolution is complicated by the downstream impacts that are difficult to quantify. Importantly, these unintended downstream impacts relate almost entirely to the energy imbalance resettlement. Although this is the largest effect, it is also the portion of the error that was likely the most well-hedged by the ERCOT participants.

---

<sup>3</sup> The results are rounded approximations and can change as meter and other data adjusts the load numbers used by ERCOT settlements.

Although the other two components of the corrections are smaller, these errors are arguably more harmful because they produce costs that are difficult or impossible to hedge. In other words, participants that have contracted for adequate supply or otherwise fully hedged their energy demand obligations receive an allocation of both the AS themselves and the AS imbalance costs that may be economically ruinous.

Therefore, we recommend that the Commission, at a minimum, seek to correct these two classes of inflated costs. Capping the Ancillary Services prices at \$9,000 per MWh should be relatively straight-forward. The Real-Time AS Imbalance Charges would naturally be eliminated if the real-time energy prices are corrected. If real-time energy prices are not corrected, these charges could be addressed by suspending these make-whole payments. This would still allow the generators to be paid the uncorrected real-time energy prices for the energy they actually produced.

With regards to correcting the real-time energy prices, we note that the actions of ERCOT could understandably be perceived as a reliability instruction to generators to keep their resources committed throughout the event. At the corrected price levels, some generators may not cover all of their fixed as-offered operating costs. These costs would typically be recovered through a Reliability Unit Commitment (RUC) guarantee payment for generators instructed to run for reliability. Therefore, if the real-time energy prices are corrected, the IMM would not oppose a make-whole payment comparable to the RUC settlement for the period in question (0:00 February 18, 2021. to 09:00 February 19, 2021). This would result in make-whole payments only to generators whose as-offered operating costs exceeded their market revenue during this period.

As always, the IMM stands ready to address any questions the Commission may have regarding this or any outcome in the ERCOT wholesale market.

Sincerely,



David B. Patton, Ph.D.  
President  
Potomac Economics  
[dpatton@potomaceconomics.com](mailto:dpatton@potomaceconomics.com)



Carrie Bivens  
VP, ERCOT IMM Director  
Potomac Economics  
[cbivens@potomaceconomics.com](mailto:cbivens@potomaceconomics.com)

# EXHIBIT E



PROCLAMATION  
BY THE  
*Governor of the State of Texas*

---

TO ALL TO WHOM THESE PRESENTS SHALL COME:

I, GREG ABBOTT, Governor of the State of Texas, do hereby certify that severe winter weather poses an imminent threat of widespread and severe property damage, injury, and loss of life due to prolonged freezing temperatures, heavy snow, and freezing rain statewide

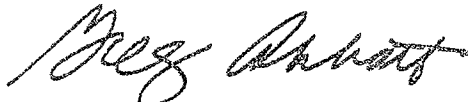
THEREFORE, in accordance with the authority vested in me by Section 418.014 of the Texas Government Code, I do hereby declare a state of disaster in all 254 counties based on the existence of such threat.

Pursuant to Section 418.017 of the code, I authorize the use of all available resources of state government and of political subdivisions that are reasonably necessary to cope with this disaster

Pursuant to Section 418.016 of the code, any regulatory statute prescribing the procedures for conduct of state business or any order or rule of a state agency that would in any way prevent, hinder, or delay necessary action in coping with this disaster shall be suspended upon written approval of the Office of the Governor. However, to the extent that the enforcement of any state statute or administrative rule regarding contracting or procurement would impede any state agency's emergency response that is necessary to protect life or property threatened by this declared disaster, I hereby authorize the suspension of such statutes and rules for the duration of this declared disaster.

In accordance with the statutory requirements, copies of this proclamation shall be filed with the applicable authorities

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my office in the City of Austin, Texas, this the 12<sup>th</sup> day of February, 2021



GREG ABBOTT  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
3:30 P.M. O'CLOCK  
FEB 12 2021

*Governor Greg Abbott*  
February 12, 2021

*Proclamation*  
Page 2

ATTESTED BY:

A handwritten signature in black ink, appearing to read 'Ruth R. Hughs', written over a horizontal line.

RUTH R. HUGHS  
Secretary of State

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
3:30 PM 12 O'CLOCK  
FEB 12 2021

# EXHIBIT F

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## Disclaimer

The information contained herein is for informational purposes only and is not intended to be used as a substitute for professional medical advice, diagnosis, or treatment. Always seek the advice of your physician or other qualified health provider with any questions you may have regarding a medical condition. Never disregard professional medical advice or delay in seeking it because of something you have read on this website. If you are pregnant, nursing, or taking any medication, consult your doctor before using any product mentioned on this website.

SA

## ERCOT Corporate Governance

5

## ERCOT's Role

ERCOT's role is to ensure the reliability of the power grid in Texas. It does this by monitoring the system 24/7, forecasting demand, and coordinating the dispatch of power plants. ERCOT also manages the transmission system and ensures that there are enough transmission lines to move power from where it is generated to where it is needed.

ERCOT's role is to ensure the reliability of the power grid in Texas. It does this by monitoring the system 24/7, forecasting demand, and coordinating the dispatch of power plants.

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## ERCOT's Role (continued)

10/10/2011

1. The ERCOT system is a large, interconnected system of electric power generation, transmission, and distribution.

2. The ERCOT system is a large, interconnected system of electric power generation, transmission, and distribution.

3. The ERCOT system is a large, interconnected system of electric power generation, transmission, and distribution.

4. The ERCOT system is a large, interconnected system of electric power generation, transmission, and distribution.

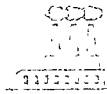




## Electric Generation, Transmission & Distribution Overview



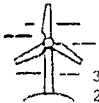
51,667 MW Gas  
47.45%



13,630 MW Coal  
12.52%



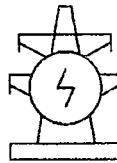
5,153 MW Nuclear  
4.73%



31,390 MW Wind  
28.83%



6,177 MW Solar  
5.67%



>46,500 Miles  
of  
Transmission  
Lines



~ 5,000  
Substations

~ 26 Million Texans

5

## Pre-Event Operational Preparation

1. All generation facilities were checked for availability and readiness for the event.

All available generation was online on February 14.

5

## Pre-Event Communications

5

## Overview of Cold Weather Event

1. Overview of Cold Weather Event

2. Overview of Cold Weather Event

3. Overview of Cold Weather Event

4. Overview of Cold Weather Event

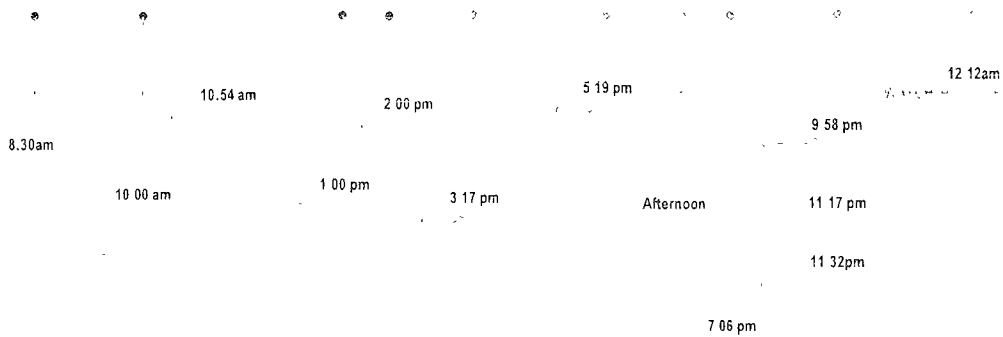
5

## Sunday, February 14 – Monday, February 15

12 15 am

1. 20 am

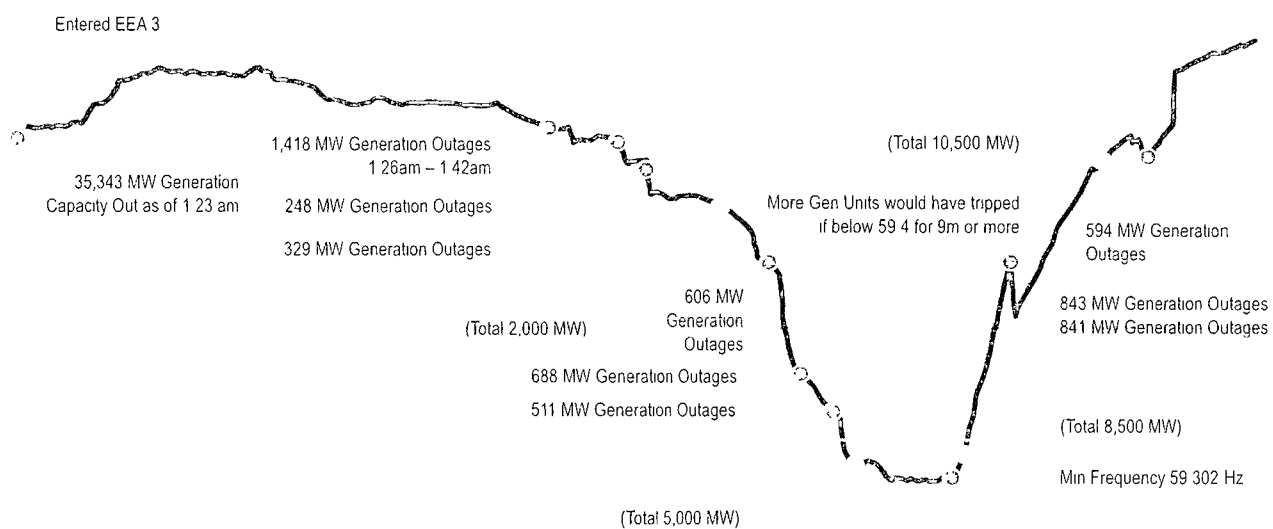
1 07 am



Note: All times are approximate



## Rapid Decrease in Generation Causes Frequency Drop

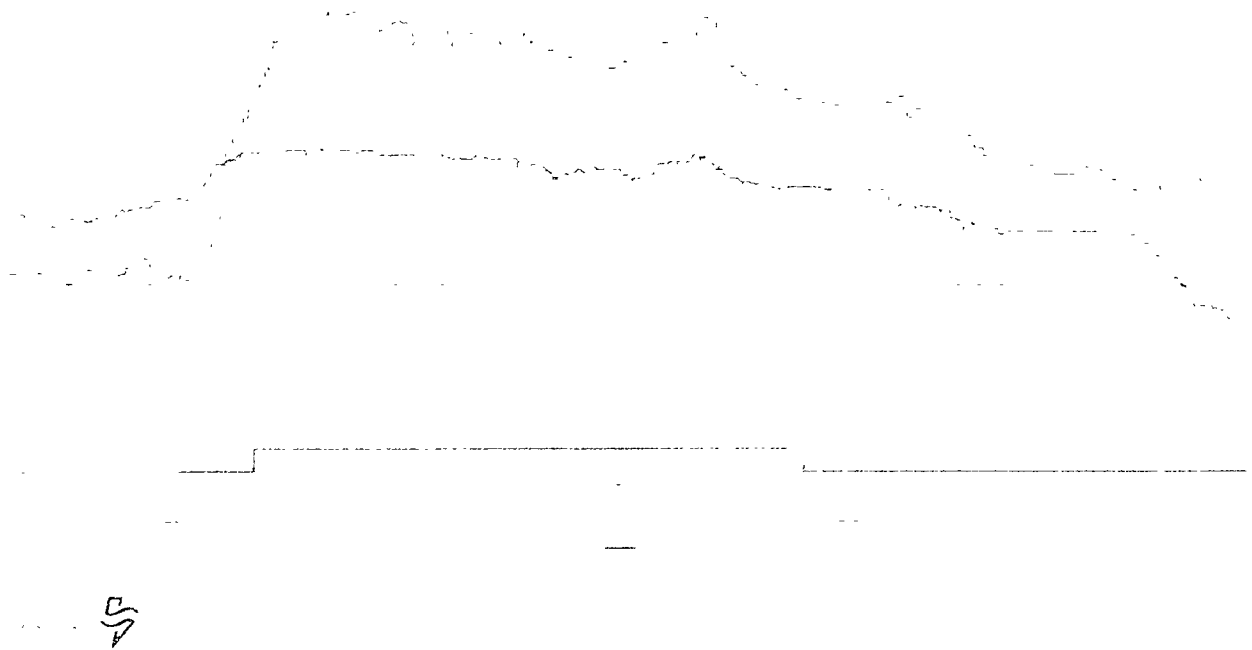


## Generation Capacity Out February 14 – 19, 2021

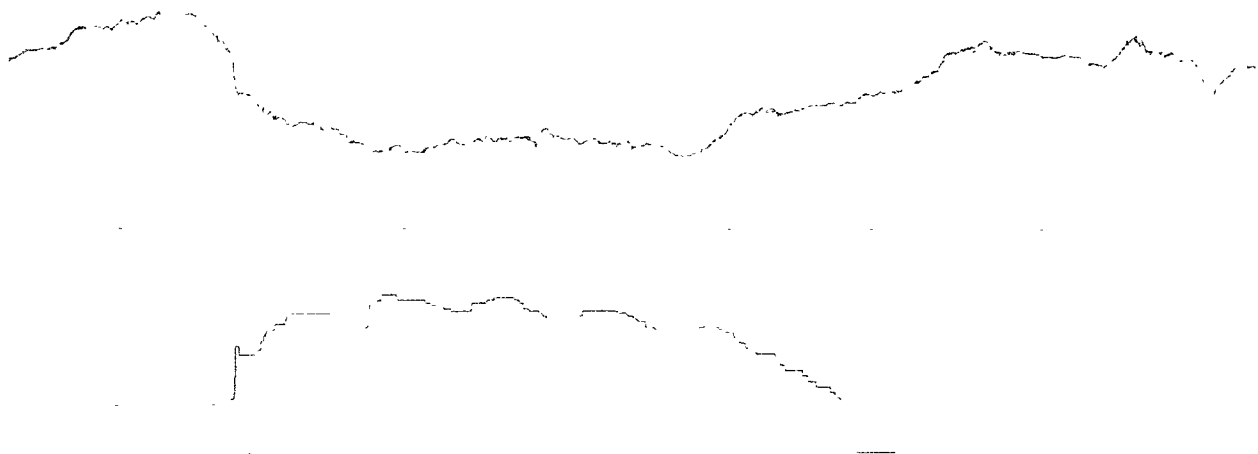
Generation Capacity Out February 14 – 19, 2021



## Generation Capacity Out by Fuel Type



## Available Generation and Estimated Load Without Load Shed



57

## Key Events (Monday, February 15 – Friday, February 19)

100%

## Generation Weatherization



✓ The weatherization program is designed to improve the energy efficiency of the building envelope, reduce energy consumption, and improve indoor air quality.



✓ The program is designed to improve the energy efficiency of the building envelope, reduce energy consumption, and improve indoor air quality.



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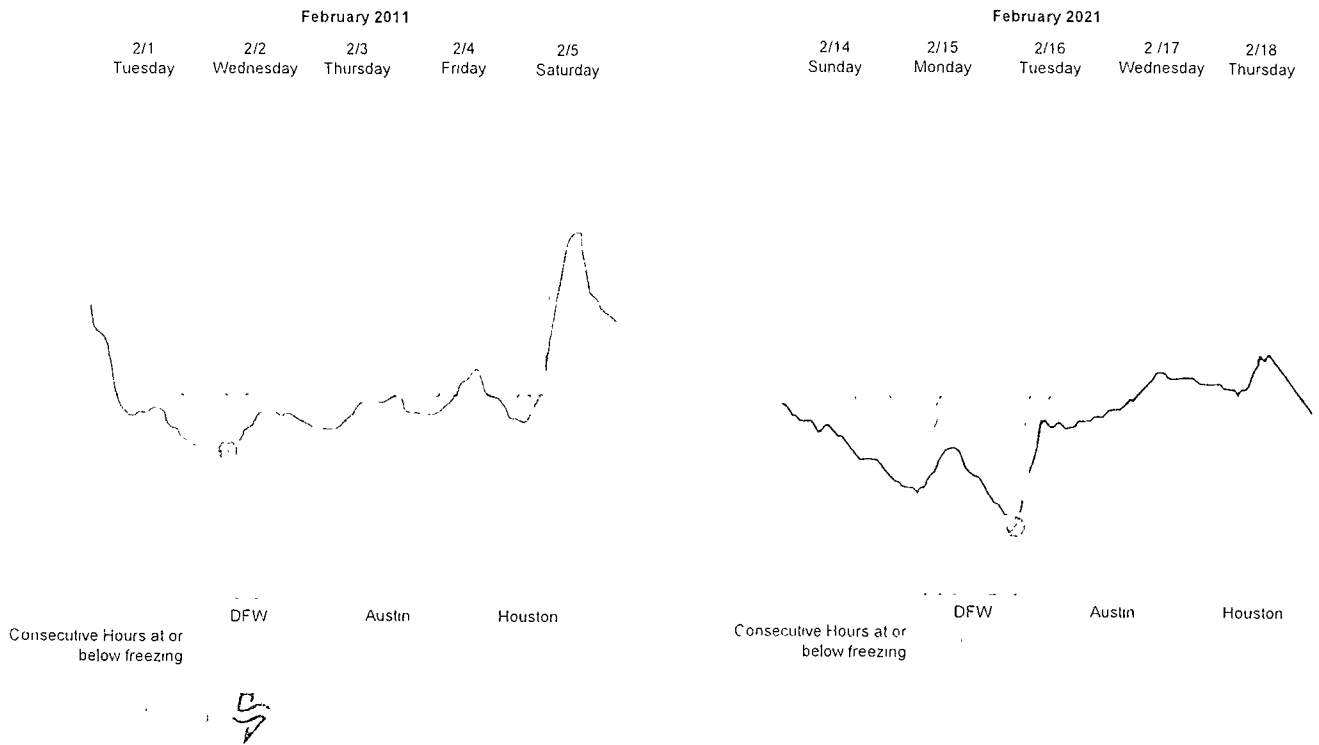


✓ The program is designed to improve the energy efficiency of the building envelope, reduce energy consumption, and improve indoor air quality.



✓ The program is designed to improve the energy efficiency of the building envelope, reduce energy consumption, and improve indoor air quality.

## 2011 vs. 2021 Event Temperature Comparison

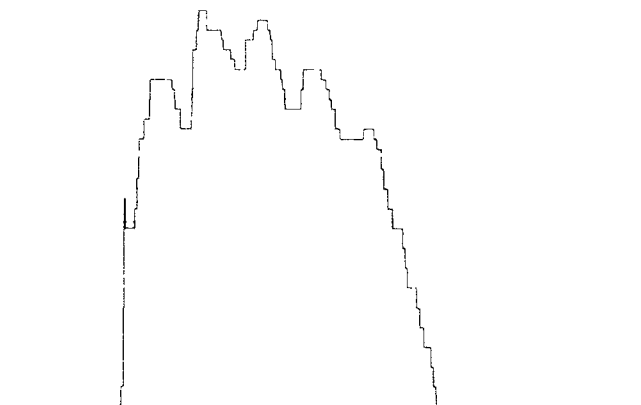


## 2011 vs. 2021 Event Comparison

DATE	DESCRIPTION	AMOUNT	CHECK NO.	BANK	REMARKS
10/1/77	10/1/77	100.00	100	100	100
10/2/77	10/2/77	100.00	100	100	100
10/3/77	10/3/77	100.00	100	100	100
10/4/77	10/4/77	100.00	100	100	100
10/5/77	10/5/77	100.00	100	100	100
10/6/77	10/6/77	100.00	100	100	100
10/7/77	10/7/77	100.00	100	100	100
10/8/77	10/8/77	100.00	100	100	100
10/9/77	10/9/77	100.00	100	100	100
10/10/77	10/10/77	100.00	100	100	100
10/11/77	10/11/77	100.00	100	100	100
10/12/77	10/12/77	100.00	100	100	100
10/13/77	10/13/77	100.00	100	100	100
10/14/77	10/14/77	100.00	100	100	100
10/15/77	10/15/77	100.00	100	100	100
10/16/77	10/16/77	100.00	100	100	100
10/17/77	10/17/77	100.00	100	100	100
10/18/77	10/18/77	100.00	100	100	100
10/19/77	10/19/77	100.00	100	100	100
10/20/77	10/20/77	100.00	100	100	100
10/21/77	10/21/77	100.00	100	100	100
10/22/77	10/22/77	100.00	100	100	100
10/23/77	10/23/77	100.00	100	100	100
10/24/77	10/24/77	100.00	100	100	100
10/25/77	10/25/77	100.00	100	100	100
10/26/77	10/26/77	100.00	100	100	100
10/27/77	10/27/77	100.00	100	100	100
10/28/77	10/28/77	100.00	100	100	100
10/29/77	10/29/77	100.00	100	100	100
10/30/77	10/30/77	100.00	100	100	100
10/31/77	10/31/77	100.00	100	100	100
11/1/77	11/1/77	100.00	100	100	100
11/2/77	11/2/77	100.00	100	100	100
11/3/77	11/3/77	100.00	100	100	100
11/4/77	11/4/77	100.00	100	100	100
11/5/77	11/5/77	100.00	100	100	100
11/6/77	11/6/77	100.00	100	100	100
11/7/77	11/7/77	100.00	100	100	100
11/8/77	11/8/77	100.00	100	100	100
11/9/77	11/9/77	100.00	100	100	100
11/10/77	11/10/77	100.00	100	100	100
11/11/77	11/11/77	100.00	100	100	100
11/12/77	11/12/77	100.00	100	100	100
11/13/77	11/13/77	100.00	100	100	100
11/14/77	11/14/77	100.00	100	100	100
11/15/77	11/15/77	100.00	100	100	100
11/16/77	11/16/77	100.00	100	100	100
11/17/77	11/17/77	100.00	100	100	100
11/18/77	11/18/77	100.00	100	100	100
11/19/77	11/19/77	100.00	100	100	100
11/20/77	11/20/77	100.00	100	100	100
11/21/77	11/21/77	100.00	100	100	100
11/22/77	11/22/77	100.00	100	100	100
11/23/77	11/23/77	100.00	100	100	100
11/24/77	11/24/77	100.00	100	100	100</

## Load Shed Ordered By Transmission Owner

Transmission Operator	% of MW
AEP Texas Central Company	8.7
Brazos Electric Power Cooperative Inc	4.95
Brownsville Public Utilities Board	0.37
Bryan Texas Utilities	0.51
CenterPoint Energy Houston Electric LLC	24.83
City of Austin DBA Austin Energy	3.71
City of College Station	0.28
City of Garland	0.75
CPS Energy (San Antonio)	6.79
Denton Municipal Electric	0.48
GEUS (Greenville)	0.15
Lamar County Electric Cooperative Inc	0.07
LCRA Transmission Services Corporation	5.96
Oncor Electric Delivery Company LLC	36.01
Rayburn Country Electric Cooperative Inc	1.3
South Texas Electric Cooperative Inc	2.52
Texas-New Mexico Power Company	2.62
<b>ERCOT Total</b>	<b>100.00</b>

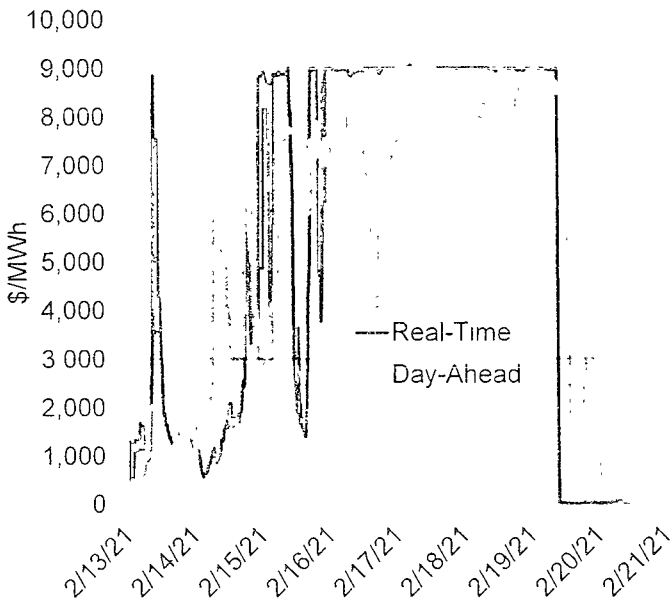


5

## · Status of Recommendations After February 2011



Real-Time and Day-Ahead System-Wide Pricing



Date Range	Real-Time	Day-Ahead
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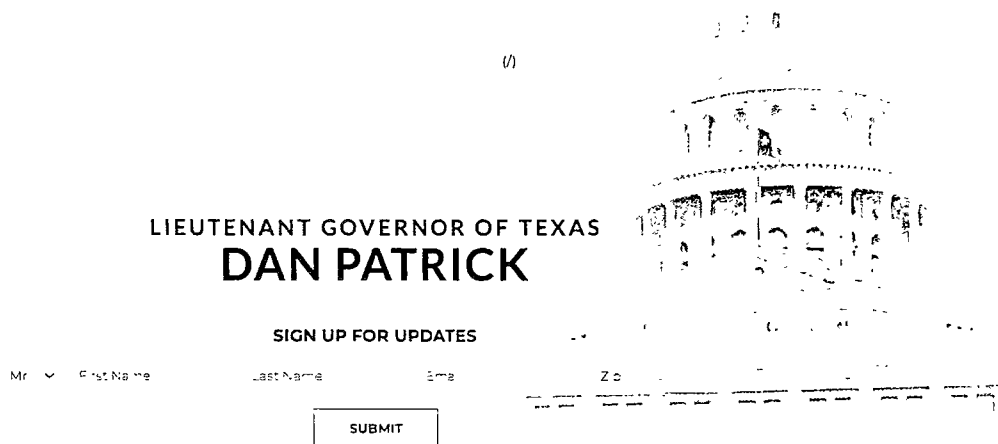
## Hedging by Market Participants

1. In a market with a single security, the only way to hedge a security is to hold the security itself.

2. In a market with multiple securities, the only way to hedge a security is to hold a portfolio of the securities.

3. In a market with multiple securities, the only way to hedge a security is to hold a portfolio of the securities.

# EXHIBIT G



## LT. GOV. DAN PATRICK CALLS ON ERCOT TO CORRECT \$16 BILLION ERROR DURING STORM

March 8, 2021

*"This is the right thing to do and it is one step we can take now to begin to fix what went wrong."*

AUSTIN - Lt. Gov. Dan Patrick called on the Texas Public Utilities Commission (PUC) and the Electric Reliability Council of Texas (ERCOT) to correct the emergency pricing error that continued after the power shortage had ended and the major threat to the Texas grid had passed.

"We are continuing to investigate the power outages of the February 15 arctic blast which plunged millions of Texans into darkness.

"In response to grid-wide power shortages starting February 15, the PUC ordered ERCOT to institute the \$9,000 per megawatt-hour cost cap, which is designed to encourage increased power generation during an extreme shortage. However, according to the Independent Market Monitor (IMM), ERCOT incorrectly extended that pricing intervention after the power shortage had ended. The \$9,000 price should have ended at 11:55 PM on February 17. Instead, it continued throughout the entire day of February 18 into February 19th - 32 hours total - which resulted in an additional \$16 billion in charges.

"The IMM is Potomac Economics, an independent economics and engineering firm that has served as ERCOT's market monitor for the past 16 years. It is their job to identify firm mistakes and recommend action. We have learned they contacted ERCOT on Thursday, February 18, to inform them their pricing was incorrect, but ERCOT ignored their recommendation.

"The IMM identified a second significant error that also must be corrected immediately. ERCOT failed to cap ancillary service prices at \$9,000 which resulted in prices rising as high as \$24,000 a megawatt-hour at intervals during the storm. Pricing should never have exceeded the \$9,000 cap at any time.

"The IMM has recommended that the PUC exercise their authority to direct ERCOT to correct both these pricing errors, but they have declined to do so. ERCOT has a procedure for correcting pricing errors, but has also declined to act so far.

"According to the ERCOT Nodal Protocol Section 6.3 (6) (a), ERCOT has 30 days from the event to correct errors in pricing. Today I am calling on both the PUC and ERCOT to follow the recommendations of the IMM and correct these mistakes. Correcting this \$16 billion error will require an adjustment, but it is the right thing to do. It will ultimately benefit consumers and is one important step we can take now to begin to fix what went wrong in the storm."

Categories: News (<https://www.ltgov.texas.gov/category/news/>)

Office of the Lieutenant Governor

# EXHIBIT H



STATE OF TEXAS  
OFFICE OF THE GOVERNOR

MESSAGE

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TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE  
EIGHTY-SEVENTH TEXAS LEGISLATURE, REGULAR SESSION:

I, GREG ABBOTT, Governor of the State of Texas, pursuant to Article III, Section 5, of the Texas Constitution and by this special message, do hereby submit the following emergency matters for immediate consideration to the Senate and House of Representatives of the 87th Legislature, now convened

Legislation relating to the correction of any billing errors by the Electric Reliability Council of Texas (ERCOT), including any inaccurate excessive charges and any issues regarding ancillary service prices

Respectfully submitted,

A handwritten signature in cursive script that reads "Greg Abbott".

---

GREG ABBOTT  
Governor

Austin, Texas  
March 9, 2021

# EXHIBIT I

By: Hughes

S.B. No. 2142

A BILL TO BE ENTITLED

AN ACT

relating to correcting the prices of wholesale power and ancillary services sold in the ERCOT market during a certain period.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. In this Act, the term "ERCOT" has the meaning assigned by Section 39.002, Utilities Code.

SECTION 2. The legislature finds that:

(1) there is a compelling public interest in correcting the prices of wholesale power and ancillary services sold in the ERCOT market during the period beginning 11:55 p.m., February 17, 2021, and ending 9 a.m., February 19, 2021; and

(2) the Public Utility Commission of Texas has all necessary authority under Section 39.151(d), Utilities Code, to order a correction of prices of wholesale power and ancillary services sold in the ERCOT market during the period described by Subdivision (1) of this section in accordance with this Act.

SECTION 3. (a) The Public Utility Commission of Texas shall order the independent organization certified for the ERCOT power region under Section 39.151, Utilities Code, to correct the prices of wholesale power and ancillary services sold in the ERCOT market during the period beginning 11:55 p.m., February 17, 2021, and ending 9 a.m., February 19, 2021, to reflect the prices of wholesale power and ancillary services that would have been paid in the ERCOT market during that period absent any action of the



1 independent organization or commission to raise prices.

2 (b) By the order described by Subsection (a) of this  
3 section, the Public Utility Commission of Texas shall require the  
4 independent organization to issue all orders and take all other  
5 actions necessary to correct the prices not later than March 20,  
6 2021.

7 (c) Notwithstanding any other law:

8 (1) Chapter 351, Government Code, does not apply to a  
9 meeting of the Public Utility Commission of Texas called for the  
10 purpose of discussing or issuing an order as required by Subsection  
11 (a) of this section; and

12 (2) the action of a single member of the Public Utility  
13 Commission of Texas is sufficient to issue that commission's order  
14 as required by Subsection (a) of this section if on the effective  
15 date of this Act there is a vacancy in the office of a commissioner  
16 of that commission.

17 SECTION 4. (a) Immediately on the governor's signing of  
18 this Act, the governor shall:

19 (1) file this Act with the secretary of state; and

20 (2) notify the Public Utility Commission of Texas that  
21 this Act has been signed.

22 (b) The Public Utility Commission of Texas shall issue the  
23 order required by Section 3 of this Act immediately on receiving  
24 notice under Subsection (a) of this section.

25 SECTION 5. This Act takes effect immediately if it receives  
26 a vote of two-thirds of all the members elected to each house, as  
27 provided by Section 39, Article III, Texas Constitution.

# EXHIBIT J

To: Legal Notifications

Sent: Mon, Feb 15, 2021, 11:08 PM

Subject: M-C021521-01 Emergency Order of the Public Utility Commission Affecting ERCOT Market Prices

**NOTICE DATE:** February 15, 2021

**NOTICE TYPE:** M-C021521-01 Legal

**SHORT DESCRIPTION:** Emergency Order of the Public Utility Commission Affecting ERCOT Market Prices

**INTENDED AUDIENCE:** ERCOT Market Participants

**DAY AFFECTED:** February 15, 2021

**LONG DESCRIPTION:** On February 15, 2021, the Public Utility Commission of Texas entered an order requiring ERCOT to address pricing issues that are significantly affecting the ERCOT Market during the ongoing Energy Emergency Alert (EEA) Level 3 conditions. This Market Notice explains how ERCOT intends to implement certain directives under this order.

First, the order requires ERCOT to ensure that firm load that is being shed in EEA3 is accounted for in ERCOT's scarcity pricing signals. This directive is based on the Commission's observation in the order that energy prices of less than \$9,000/MWh during load-shed conditions are inconsistent with the fundamental design of the ERCOT Market. ERCOT will implement the pricing outcomes directed by the order by making an administrative adjustment to the Generation To Be Dispatched value in the Real-Time Reliability Deployment Price Adder process during all intervals in which ERCOT has directed firm Load shed. This adjustment will be equal to the cumulative MW ERCOT has directed for Load shed during each Security-Constrained Economic Dispatch (SCED) interval. To make use of existing system functionality and strictly for purposes of the Real-Time Reliability Deployment Price Adder process, this cumulative MW value will be entered in as a Real-Time Block Load Transfer Import (RTBLTIMPORT) and will appear in any associated Market-facing reports as such. This change has already been implemented and will operate prospectively until the Commission directs otherwise.

Second, the order recognizes that ERCOT may soon reach the Peaker Net Margin revenue threshold established in PUC Rule 25.505(g)(6), which requires ERCOT to use the Low System-Wide Offer Cap (LCAP) instead of the \$9,000 High System-Wide Offer Cap (HCAP) currently in effect. The order notes that the use of the LCAP as required by the rule could result in prices that exceed the HCAP given current gas prices. Consequently, the order directs ERCOT to suspend any use of the LCAP until after the Commission's regularly-scheduled next open meeting, and to continue to use the HCAP as the system-wide offer cap until that time. In accordance with this order, ERCOT will continue to use the HCAP as the System-Wide Offer Cap until after the Commission's next open meeting.

**ADDITIONAL INFORMATION:** The PUC's February 15, 2021 Order is available at <http://www.puc.texas.gov/eeaa/EEA-2021-02-15>.

Due to an outage on the e-mail list management system used by ERCOT (ListServ), ERCOT is unable to send Market Notices to publicly subscribed e-mail distribution lists. Please forward this Market Notice to appropriate personnel in your organization to whom Market Notices would normally be distributed.

**CONTACT:** If you have any questions, please contact your ERCOT Account Manager. You may also call the general ERCOT Client Services phone number at (512) 248-3900 or contact ERCOT Client Services via email at [ERCOT.Client.Services@ercot.com](mailto:ERCOT.Client.Services@ercot.com).

If you are receiving email from an ERCOT distribution list that you no longer wish to receive, please follow this link in order to unsubscribe from this list: <http://lists.ercot.com>